रजिस्ट्री सं० डी. 221

REGISTERED No. D. 221

भारत का राजपत्र
The Gazette of India

असाधारण
EXTRAORDINARY
भाग II—खण्ड 2
PART II—Section 2
प्राधिकार से प्रकाशित
PUBLISHED BY AUTHORITY

सं० 57] नई दिल्ली, सोमवार, दिसम्बर 6, 1965/अग्रहायण 15, 1887
No. 57] NEW DELHI, MONDAY, DECEMBER 6, 1965/AGRAHAYANA 15, 1887

इस भाग में भिन्न पृष्ठ संख्या दी जाती है जिससे कि यह अलग संकलन के रूप में रखा जा सके।
Separate paging is given to this Part in order that it may be filed as a separate compilation.

LOK SABHA

The following Bills were introduced in Lok Sabha on the 6th December, 1965:—

BILL No. 84 OF 1965

A Bill further to amend the Displaced Person (Compensation and Rehabilitation) Act, 1954.

BE it enacted by Parliament in the Sixteenth Year of the Republic of India as follows:—

1. This Act may be called the Displaced Persons (Compensation and Rehabilitation) Amendment Act, 1965. Short title.

44 of 1954.

2. In the Displaced Persons (Compensation and Rehabilitation) Act, 1954, after section 8, the following section shall be, and shall be deemed always to have been, inserted, namely:— Insertion of new section 8A.

"8A. (*1*) Where any compensation is payable to any displaced person in lieu of property abandoned by him in West Pakistan which on the date of his migration from West Pakistan was subject to a mortgage in favour of a person who is not Payment of compensation in cases of mortgaged properties.

resident in India, the Settlement Commissioner shall, after giving a reasonable notice to the displaced person, determine the principal sum for which the property was so mortgaged and such portion of the principal sum so determined as bears the same proportion as the compensation payable to the displaced person bears to the value of the verified claim of the displaced person in respect of that mortgaged property shall be deductible from the compensation payable in respect of the mortgaged property:

Provided that where compensation has been paid to any displaced person without such deduction having been made, the displaced person shall pay to the Central Government the amount of such deduction within three months of the determination thereof or such longer period as may be prescribed:

Provided further that where compensation has been paid to any displaced person by sale or any other mode of transfer to him of any property from the compensation pool, the displaced person may, within the aforesaid period of three months or, as the case may be, within the aforesaid prescribed period,—

(*a*) either retain the property on his paying in cash the aforesaid amount, or

(*b*) surrender a portion of that property of a value equivalent to the amount of such deduction, such value being determined by the Settlement Commissioner in the prescribed manner.

(2) If any displaced person fails to pay any amount which is liable to be deducted from his compensation under sub-section (*1*), or fails to surrender the property of the value equivalent to such amount, such amount may be recovered in the same manner as an arrear of land revenue.".

STATEMENT OF OBJECTS AND REASONS

Certain difficulties are being experienced in the administration of the Displaced Persons (Compensation and Rehabilitation) Act, 1954 and the early completion of the compensation scheme is thus impeded. Some of the properties left by the displaced persons in West Pakistan were subject to mortgages with the nationals of West Pakistan and it was therefore considered that proportionate deductions should be made from the compensation due to them on that account. Accordingly with a view to recovering the amounts of such deductions executive directions were issued in this behalf by the Punjab Government. In a writ petition before the High Court of Punjab the issue of these directions was challenged. The High Court held that the departmental authorities had not been empowered by law to realise the amounts of such deductions. It is, therefore, necessary that a suitable provision should be made in the Act for effecting the recovery of a portion of the compensation already paid to the displaced persons in lieu of the mortgage amounts received by them. Option is being given to the displaced persons either to retain the property on their paying in cash the amount so deductible or to surrender the portion of the property of a value equivalent to the amount of such deduction and on failure of payment of such amount, it is proposed to recover the amount in the same manner as an arrear of land revenue.

The Bill seeks to achieve these objects.

NEW DELHI;
The 25th November, 1965.

MAHAVIR TYAGI.

MEMORANDUM REGARDING DELEGATED LEGISLATION

Clause 2 of the Bill inserts a new section 8A in which it is provided that where compensation has been paid to a displaced person without any deduction having been made on account of the mortgage money received by him, such displaced person shall pay to the Central Government the amount of such deduction within three months of the determination thereof or such longer period as may be prescribed. There may be cases where it may be more appropriate to allow longer period for the discharge of the aforesaid liability.

The aforesaid new section gives option to a displaced person to surrender a portion of the property allotted to him of a value equivalent to the amount deductible under the section, such value being determined in the prescribed manner.

The delegation of the aforesaid power relates to matters of detail or procedure and is thus of a normal character.

BILL No. 90 OF 1965

a Bill to provide for the constitution of a High Court for the Union territory of Delhi, for the extension of the jurisdiction of that High Court to the Union territory of Himachal Pradesh and for matters connected therewith.

BE it enacted by Parliament in the Sixteenth Year of the Republic of India as follows:—

Short title and commencement.

1. (*1*) This Act may be called the Delhi High Court Act, 1965.

(*2*) Section 17 shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint; and the remaining provisions of this Act shall come into force at once.

Definitions.

2. In this Act, unless the context otherwise requires,—

(*a*) "appointed day" means the date appointed under section 3;

(*b*) "notified order" means order notified in the Official Gazette.

High Court

3. (*1*) As from such date as the Central Government may, by notification in the Official Gazette, appoint, there shall be a High Court for the Union territory of Delhi (hereinafter referred to as the High Court of Delhi).

(2) The principal seat of the High Court of Delhi shall be at Delhi or at such other place as the President may, by notified order, appoint.

(3) Notwithstanding anything contained in sub-section (2), the Judges and Division Courts of the High Court of Delhi may sit at such other place or places other than its principal seat as the Chief Justice may, with the approval of the President, appoint.

Exceptions and modifications subject to which the provisions of Chapter V of Part VI of the Constitution apply to the High Court of Delhi.

4. (*1*) The provisions of Chapter V of Part VI of the Constitution shall, in their application to the High Court of Delhi, have effect subject to the following exceptions and modifications, namely:—

(*a*) in article 217, the words "the Governor of the State" shall be omitted;

(*b*) in article 219, the reference to the Governor of the State, and in the proviso to clause (3) of article 227, the reference to the Governor, shall be construed as a reference to the administrator of the Union territory of Delhi;

(*c*) the provisions of article 225 shall not apply;

(*d*) in article 229,—

(*i*) the references to the Governor of the State shall be construed as references to the administrator of the Union territory of Delhi;

(*ii*) the references to the State Public Service Commission, the Legislature of the State and the Consolidated Fund of the State shall be construed, respectively, as references to the Union Public Service Commission, Parliament and the Consolidated Fund of India;

(*e*) the provisions of article 230 shall apply subject to the modifications that—

(i) in clause (1) thereof, for the words "High Court" in both the places where they occur, the words "High Court for a Union territory" and for the words "any Union territory", the words "any other Union territory" shall be substituted;

(*ii*) for clause (2) thereof, the following clause shall be substituted, namely:—

"(2) Where the High Court for a Union territory exercises jurisdiction in relation to another Union territory, the reference in article 227 to the administrator of the Union territory of Delhi shall, in relation to any rules, forms or tables for subordinate courts in that other Union territory, be construed as a reference to the administrator of that other Union territory.".

(*2*) Between the coming into force of this section and the appointed day, the President may, after consultation with the Chief Justice of India, appoint the Chief Justice of the High Court of Delhi and as many other Judges of the said High Court as he thinks fit, and any appointments so made shall take effect as from the appointed day.

Jurisdiction of High Court of Delhi.

5. (*1*) The High Court of Delhi shall have in respect of the territories for the time being included in the Union territory of Delhi, all such original, appellate and other jurisdiction as, under the law in force immediately before the appointed day, is exercisable in respect of the said territories by the High Court of Punjab.

(*2*) Notwithstanding anything contained in any law for the time being in force, the High Court of Delhi shall also have in respect of the said territories ordinary original civil jurisdiction in every suit the value of which exceeds twenty-five thousand rupees.

Power to enrol advocates, etc.

6. (*1*) The High Court of Delhi shall have like powers to approve, admit, enrol, remove and suspend legal practitioners, and to make rules with respect to them, as are, under the law in force immediately before the appointed day, exercisable by the High Court of Punjab.

(*2*) The right of audience in the High Court of Delhi shall be regulated in accordance with the like principles, as, immediately before the appointed day, are in force with respect to the right of audience in the High Court of Punjab:

Provided that subject to any rule made or direction given by the High Court of Delhi in the exercise of the powers conferred by this section, any person who immediately before the appointed day is an advocate entitled to practise or an attorney entitled to act in the High Court of Punjab shall be recognised as an advocate or an attorney entitled to practise or act, as the case may be, in the High Court of Delhi.

Practice and procedure in the High Court of Delhi.

7. Subject to the provisions of this Act, the law in force immediately before the appointed day with respect to practice and procedure in the High Court of Punjab shall, with the necessary modifications, apply in relation to the High Court of Delhi and accordingly the High Court of Delhi shall have all such powers to make rules and orders with respect to practice and procedure as are immediately before the appointed day exercisable by the High Court of Punjab and shall also have powers to make rules and orders with respect to practice and procedure for the exercise of its ordinary original civil jurisdiction:

Provided that any rules or orders which are in force immediately before the appointed day with respect to practice and procedure in the High Court of Punjab shall, until varied or revoked by rules or orders made by the High Court of Delhi, apply with the necessary modifications in relation to practice and procedure in the High Court of Delhi as if made by that High Court.

Custody of the Seal of the High Court of Delhi.

8. The law in force immediately before the appointed day with respect to the custody of the Seal of the High Court of Punjab shall, with the necessary modifications, apply with respect to the custody of the Seal of the High Court of Delhi.

Form of writs and other processes.

9. The law in force immediately before the appointed day with respect to the form of writs and other processes used, issued or awarded by the High Court of Punjab shall, with the necessary modifications, apply with respect to the form of writs and other processes issued or awarded by the High Court of Delhi.

Powers of Judges.

10. (*1*) Where a single Judge of the High Court of Delhi exercises ordinary original civil jurisdiction conferred by sub-section (*2*) of section 5 on that Court, an appeal shall lie from the judgment of the single Judge to a Division Court of that High Court.

(2) Subject to the provisions of sub-section (*1*), the law in force immediately before the appointed day relating to the powers of the Chief Justice, single Judges and Division Courts of the High Court of Punjab and with respect to all matters ancillary to the exercise of those powers shall, with the necessary modifications, apply in relation to the High Court of Delhi.

Procedure as to appeals to Supreme Court.

11. The law in force immediately before the appointed day relating to appeals to the Supreme Court from the High Court of Punjab and the Judges and Division Courts thereof shall, with the necessary modifications, apply in relation to the High Court of Delhi.

Transfer of proceedings from the High Court of Punjab to the High Court of Delhi.

12. (*1*) Except as hereinafter provided, the High Court of Punjab shall, as from the appointed day, have no jurisdiction in respect of the Union territory of Delhi.

(*2*) Such proceedings pending in the High Court of Punjab immediately before the appointed day as are certified, whether before or after that day, by the Chief Justice of that High Court having regard to the place of accrual of the cause of action and other circumstances to be proceedings which ought to be heard and decided by the High Court of Delhi, shall, as soon as may be after such certification, be transferred to the High Court of Delhi.

(*3*) Notwithstanding anything contained in sub-sections (*1*) and (*2*) of this section and in section 5, but save as hereinafter provided, the High Court of Punjab shall have, and the High Court of Delhi shall not have, jurisdiction to entertain, hear or dispose of, appeals, applications for leave to appeal including leave to appeal to the Supreme Court, applications for review and other proceedings where any such proceedings seek any relief in respect of any order passed by the High Court of Punjab before the appointed day:

Provided that if after any such proceedings have been entertained by the High Court of Punjab, it appears to the Chief Justice of that High Court that they ought to be transferred to the High Court of Delhi, he shall order that they shall be so transferred, and such proceedings shall thereupon be transferred accordingly.

(*4*) Any order made by the High Court of Punjab—

(*a*) before the appointed day, in any proceedings transferred to the High Court of Delhi by virtue of sub-section (*2*);

(*b*) in any proceedings with respect to which the High Court of Punjab retains jurisdiction by virtue of sub-section (*3*),

shall for all purposes have effect, not only as an order of the High Court of Punjab, but also as an order made by the High Court of Delhi.

Right to appear or to act in proceedings transferred to the High Court of Delhi.

13. Any person who, immediately before the appointed day, is an advocate entitled to practise or an attorney entitled to act, in the High Court of Punjab, and was authorised to appear or to act in any proceedings transferred from that High Court to the High Court of Delhi under section 12, shall have the right to appear or to act, as the case may be, in the High Court of Delhi in relation to those proceedings.

Interpretation.

14. For the purposes of sections 12 and 17,—

(*a*) proceedings shall be deemed to be pending in a court until that court has disposed of all issues between the parties, including any issues with respect to the taxation of the costs of

the proceedings and shall include appeals, applications for leave to appeal to the Supreme Court, applications for review, petitions for revision and petitions for writs;

(*b*) references to a High Court shall be construed as including references to a Judge or Division Court thereof, and references to an order made by a court or a Judge shall be construed as including references to a sentence, judgment or decree passed or made by that court or Judge.

Savings.

15. Save as provided in section 4, nothing in this Act shall affect the application to the High Court of Delhi of any provisions of the Constitution, and this Act shall have effect subject to any provision that may be made on or after the appointed day with respect to that High Court by any Legislature or other authority having power to make such provision.

Pending proceedings before subordinate courts in Delhi.

16. Notwithstanding anything contained in sub-section (*2*) of section 5, all proceedings pending immediately before the appointed day in any subordinate court in the Union territory of Delhi in or in relation to any such civil suit as is referred to in that sub-section shall be proceeded with and disposed of as if this Act had not been passed.

Extension of the jurisdiction of the High Court of Delhi.

17. (*1*) **As from such date as the Central Government may, by notification in the Official Gazette, appoint (hereinafter referred to as the prescribed date), the jurisdiction of the High Court of Delhi shall extend to the Union territory of Himachal Pradesh.**

(*2*) As from the prescribed date the Court of the Judicial Commissioner for Himachal Pradesh shall cease to function and is hereby abolished:

Provided that nothing in this sub-section shall prejudice or affect the continued operation of any notice served, injunction issued, direction given, or proceedings taken before the prescribed date by the Court of the Judicial Commissioner for Himachal Pradesh abolished by this sub-section.

(*3*) The High Court of Delhi shall have, in respect of the territories for the time being included in the Union territory of Himachal Pradesh,—

(*a*) all such original, appellate and other jurisdiction as under the law in force immediately before the prescribed date, is exercisable in respect of the said territories by the Court of the Judicial Commissioner for Himachal Pradesh; and also

(*b*) ordinary original civil jurisdiction in every suit the value of which exceeds twenty-five thousand rupees, notwithstanding anything contained in any law for the time being in force.

(4) All proceedings pending in the Court of the Judicial Commissioner for Himachal Pradesh before the prescribed date shall stand transferred to the High Court of Delhi.

(5) Any order made before the prescribed date by the Court referred to in sub-section (4) shall for all purposes have effect not only as an order of that Court but also as an order of the High Court of Delhi.

(6) For the removal of doubts, it is hereby declared that the provisions of sections 6 to 11 and 13 shall, with the necessary modifications, apply to the High Court of Delhi in the exercise of jurisdiction conferred upon it by this section.

(7) Notwithstanding anything contained in clause (b) of sub-section (3), all proceedings pending immediately before the prescribed date in any subordinate court in the Union territory of Himachal Pradesh in or in relation to any such civil suit as is referred to in that clause shall be proceeded with and disposed of as if this Act had not been passed.

Rule of construction.

18. (1) References in any law in force in the Union territory of Delhi to the High Court of Punjab shall, as from the appointed day, be construed as references to the High Court of Delhi.

(2) References in any law in force in the Union territory of Himachal Pradesh to the High Court of Punjab or to the Court of the Judicial Commissioner for that territory shall, as from the prescribed date, be construed as references to the High Court of Delhi.

Amendment of certain laws.

19. The laws specified in the Schedule shall be amended in the manner and with effect from the date specified therein.

Power to remove difficulties.

20. If any difficulty arises in giving effect to the provisions of this Act, the Central Government may, by notified order, make such provision as appears to it to be necessary or expedient for the removal of the difficulty.

Power to adapt laws.

21. For the purpose of facilitating the application of any law in relation to the Union territory of Delhi or Himachal Pradesh, the Central Government may, before the expiration of two years from the appointed day in relation to the Union territory of Delhi and before the expiration of two years from the prescribed date in relation to the Union territory of Himachal Pradesh, by order, make such adaptations and modifications of the law, whether by way of repeal or amendment, as may be necessary or expedient to give effect

to the provisions of this Act and thereupon every such law shall have effect subject to the adaptations and modifications so made until altered, repealed or amended by a competent Legislature or other competent authority.

THE SCHEDULE

(*See* section 19)

I. As from the appointed day, in the Punjab Courts Act, 1918, as in force in the Union territory of Delhi,— Punjab Act VI of 1918.

(*i*) in section 25, for the words "in original civil suits without limit as regards the value", the words "in every original civil suit the value of which does not exceed twenty-five thousand rupees" shall be substituted;

(*ii*) in section 26, for the words "The jurisdiction", the words and figures "Subject to the limit specified in section 25, the jurisdiction" shall be substituted.

II. As from the prescribed date, in the Judicial Commissioners' Courts (Declaration as High Courts) Act, 1950, in section 3, the expression "Himachal Pradesh," shall be omitted. 15 of 1950.

III. As from the prescribed date, in the Mimachal Pradesh (Courts) Order, 1948,—

(*i*) throughout the Order, save as otherwise expressly provided, for the words "Chief Commissioner", the words "Lieutenant Governor" shall be substituted and for the words "Judicial Commissioner" or "Court of the Judicial Commissioner", the words "High Court" shall be substituted, and such consequential amendments as the rules of grammar may require shall be made;

(*ii*) Chapter II shall be omitted;

(*iii*) in paragraph 15, the words "the Court of the Judicial Commissioner and" shall be omitted;

(*iv*) in paragraph 20, for the words "in civil suits without limit as regards the value", the words "in every civil suit the value of which does not exceed twenty-five thousand rupees" shall be substituted;

(*v*) in paragraph 21, for the words "The jurisdiction", the words and figures "Subject to the limit specified in paragraph 20, the jurisdiction" shall be substituted;

(*vi*) in paragraph 36, sub-paragraph (1) shall be omitted and in sub-paragraph (2), for the words, brackets and figure "under sub-paragraph (1)", the words and figures "for the exercise of the jurisdiction under paragraph 35" shall be substituted.

STATEMENT OF OBJECTS AND REASONS

Under the existing arrangement, a Circuit Bench of the Punjab High Court functions in Delhi to deal with the High Court cases arising in the Union territory of Delhi and the Delhi Administration is paying to the Punjab Government the actual cost of the Circuit Bench in Delhi and also the proportionate cost on account of the High Court at Chandigarh. This arrangement is not very satisfactory and the question of having a separate High Court for Delhi has been under consideration for some time past. The volume of work in Delhi has been on the increase and is likely to increase further. Having regard to the importance of Delhi, its growing population and other considerations, it is proposed to have a separate High Court for Delhi. This would also facilitate the implementation of the scheme for separation of the judiciary from the executive in the Union territory of Delhi. At the same time, the cost of the new High Court may not exceed the expenses incurred at present.

2. It is also proposed to extend the jurisdiction of the new High Court of Delhi to the Union territory of Himachal Pradesh and abolish the Court of the Judicial Commissioner there. It is further proposed that the new High Court should have original civil jurisdiction in respect of suits the value of which exceeds Rs. 25,000.

NEW DELHI; JAI SUKHLAL HATHI.

The 1st December, 1965.

PRESIDENT'S RECOMMENDATION UNDER ARTICLE 117 OF THE CONSTITUTION OF INDIA

[Copy of letter No. 16/1/64-Judl. I, dated the 2nd December, 1965 from Shri Jai Sukhlal Hathi, Minister of State in the Ministry of Home Affairs to the Secretary, Lok Sabha.]

The President having been informed of the subject matter of the Delhi High Court Bill, 1965, recommends the introduction and consideration of the Bill in the Lok Sabha under Article 117(1) and 117(3) of the Constitution of India.

FINANCIAL MEMORANDUM

Under the existing arrangement the Circuit Bench of the Punjab High Court functions at Delhi to dispose of High Court cases arising in the Union territory of Delhi. The Delhi Administration has to make contribution to the Government of Punjab on account of the actual cost of the Circuit Bench and also proportionate cost of the High Court at Chandigarh. The payments made on these two counts during the years 1962-63, 1963-64 and 1964-65 have been respectively Rs. 8,42,000, Rs. 8,93,000 and Rs. 11,65,000 (in round thousands).

The details of the cost of the new High Court at Delhi have not been fully worked out. It is, however, felt that it may not exceed the total payments now being made to the Government of Punjab.

MEMORANDUM REGARDING DELEGATED LEGISLATION

Clause 21 of the Bill empowers the Central Government to adapt existing laws in order to facilitate their application to the Union territory of Delhi or Himachal Pradesh. This power will be available until the expiration of two years from the appointed day or the prescribed date, as the case may be.

The proposed delegation of legislative power is of a normal character.

S. L. SHAKDHER,
Secretary.

PRINTED IN INDIA BY THE GENERAL MANAGER, GOVERNMENT OF INDIA PRESS, MINTO ROAD, NEW DELHI AND PUBLISHED BY THE MANAGER OF PUBLICATIONS, DELHI 1965.